

SENATE No. 399

To accompany the petition of Richard S. Bowers for legislation to authorize the Supreme Judicial Court to regulate by rule practice and procedure in all the courts of the Commonwealth. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-One.

AN ACT RELATIVE TO THE RULES OF THE COURTS OF THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter two hundred and eleven
2 of the General Laws is hereby amended by inserting
3 after section three, as appearing in the Tercentenary
4 Edition, the following new section:—
5 *Section 3A.* In addition to the authority of the
6 several courts to make rules, the supreme judicial
7 court may regulate by rule pleading, practice and
8 procedure in all the courts. Such rules shall not
9 abridge, enlarge or modify the substantive rights of
10 any litigant or affect the right of trial by jury under
11 the constitution, or authorize a court to instruct a
12 jury on facts, or authorize the establishment of,
13 increase in, or addition to, any fees for any step in the
14 practice and procedure in any cause. Such rules shall
15 become effective on such date, not less than thirty

16 days, from the time of their promulgation by the
17 supreme judicial court as said court may specify.
18 Thereafter, all statutes in conflict therewith shall be
19 of no further force or effect. The statutes or parts
20 thereof thus superseded shall be specified in, or with,
21 the rules thus promulgated. This section shall not
22 affect the authority of the several courts or classes
23 of courts or the justices thereof to make rules, except
24 that such rules shall not conflict with rules of the
25 supreme judicial court.

1 SECTION 2. This act shall take effect on October
2 first of the current year.